



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/160861

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 21, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly ended the BadgerCare+ benefits for Petitioner's children, effective November 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Pang Thao Xiong, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 18, 2014, the agency sent the Petitioner a notice indicating that healthcare benefits would be ending for her children, effective November 1, 2014, because the household income

went over the program limit and because they had access to health insurance through a parent. (Exhibit 2, pgs. 63-72)

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 24, 2014. (Exhibit 1)
4. Petitioner's husband, [REDACTED], has access to health insurance through his employer. This coverage can extend to his spouse / family, although an additional \$100 monthly surcharge applies, if the spouse has access to health insurance through her own employer. (Exhibit 3)
5. [REDACTED] is the stepfather of Petitioner's children, [REDACTED] and [REDACTED] (Testimony of Petitioner)
6. [REDACTED] is 12 years old and [REDACTED] is 11 years old. (Exhibit 6, pg. 8)
7. [REDACTED]'s employer pays at least 80% of the premium. (Testimony of Petitioner)

DISCUSSION

Children ages 6-18 are not eligible for BadgerCare+ benefits under the following conditions:

- 1) Household income is over 150% of the Federal Poverty Level (FPL),
- 2) There is access to health insurance through a parent's employer,
- 3) The employer pays for at least 80% of the premium, and
- 4) The parent could have enrolled in the health plan within the last 12-months OR
- 5) Coverage would begin in three calendar months following:
 - a. The month of the BadgerCare+ application filing date
 - b. The annual review month; or
 - c. The employment start date.

BadgerCare+ Eligibility Handbook (BEH §7.8.2)

In the case at hand, the agency asserts that the Petitioner's children are not eligible for BadgerCare+ because they have access to employer sponsored health insurance through their stepfather.

Under the affordable care act, employers are NOT required to extend coverage to an employee's stepchildren. See http://www.irs.gov/irb/2014-9_IRB/ar05.html#d0e1009 The documentation from [REDACTED]'s employer, does not make clear whether it will extend coverage to his stepchildren. Consequently, the agency has not shown that it correctly ended the children's benefits due to access to other health insurance.

The agency will need to verify that the children are [REDACTED]'s stepchildren and the agency will need to obtain verification from [REDACTED]'s employer that its family health insurance coverage extends to stepchildren, before making an eligibility determination for Petitioner's children. Until such time, the children's health care coverage should be reinstated.

CONCLUSIONS OF LAW

The agency did not correctly end BadgerCare+ benefits for Petitioner's children, effective November 1, 2014.

THEREFORE, it is

ORDERED

That the agency reinstate BadgerCare+ benefits for Petitioner's children effective November 1, 2014.

The agency shall also verify the step relationship between [REDACTED] and Petitioner's children and it shall verify whether [REDACTED]'s employer extends family health insurance coverage to stepchildren.

Upon receipt of such verification, the agency shall then re-determine the children's eligibility for BadgerCare+ benefits and issue to the Petitioner a new notice, advising her of its new determination.

The agency shall take all administrative steps necessary to complete these tasks within 20 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of November, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 17, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability